

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
58th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON FEDERAL RELATIONS, ENERGY, AND TELECOMMUNICATIONS

Call to Order: By **CHAIRMAN ROD BITNEY**, on February 3, 2003 at 3:20 P.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Rod Bitney, Chairman (R)
Rep. Gary Matthews, Vice Chairman (D)
Rep. Dee Brown (R)
Rep. Eileen J. Carney (D)
Rep. Tim Dowell (D)
Rep. Daniel Fuchs (R)
Rep. Hal Jacobson (D)
Rep. Jeff Laszloffy (R)
Rep. John Parker (D)
Rep. Brennan Ryan (D)

Members Excused: Rep. Alan Olson, Vice Chairman (R)

Members Absent: Rep. Scott Mendenhall (R)
Rep. Diane Rice (R)
Rep. Jim Shockley (R)

Note: Representatives Olson, Mendenhall, Rice and Shockley arrived after the roll call was taken.

Staff Present: Glenna McClure, Committee Secretary
Mary Vandebosch, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 377, 1/25/2003; HB 417,
1/25/2003
Executive Action: None

HEARING ON HB 377

{Tape: 1; Side: A; Approx. Time Counter: 1.5 - 5.2}

Sponsor: REPRESENTATIVE CINDY YOUNKIN, HD 28

Opening Statement by Sponsor:

REP. YOUNKIN distributed a handout title "Clean energy promise."

EXHIBIT (feh23a01)

She said that the purpose of HB 377 is to offer general obligation funds for purposes of funding a hydrogen futures park in Missoula. This is an alternative fuel source that is environmentally friendly. The bill authorizes the Board of Examiners to issue general obligation funds not to exceed \$30 million for the purposes of supporting the education of Montana citizens and to create a hydrogen-related economy. It will enable the purchase of equipment for the hydrogen futures park. The Architecture and Engineering Division of the Department of Administration will approve the plans and specifications of the infrastructure. It requires all of the appropriate reviews prior to approval. The idea is that the tax revenue generated by the project would be sufficient to pay the debt service. As general application bonds, in the event that the funds are less than expected, the General Fund would pay the debt services. A 2/3 vote is required between the House and Senate to obligate funds for the state.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 5.2 - 12.8}

Paul Williamson, Dean, University of Montana College of Technology, said that, from an economic and technological standpoint, Montana is uniquely situated to take of advantage of moving the state forward. Hydrogen could be the economic driver to help fund infrastructure needs throughout the state and stimulate other business and economic development.

Tom Figarelle, Forward Montana, said that they support this bill. The hydrogen fuel cell creates a balance between technology and economy. Montana could be on the verge of being a key player in hydrogen fuel which could eliminate or lessen the need for foreign sources of fuel.

Debbie Smith, Natural Resources Defense Council, said that they enthusiastically support this bill. Hydrogen fuel cells are the wave of the future. They can be fueled by natural gas and, eventually, by the renewable resources of wind and solar and geothermal. Montana is well-situated to get in on the cutting edge of this technology.

Patrick Judge, Montana Environmental Information Center, said that they support this bill. This is a perfect example of clean economic development.

Opponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 12.8 - 16.5}

Greg Jergeson, representing himself, said that he is really not an opponent of the purpose of this bill. However, he wanted to caution the committee that in Subsection two, Section one, the language eliminates the requirement of Public Procurement Laws of Title 18. The committee is being asked to pay debt services on a large project without complying with the Public Procurement Laws. In Title 18 the Public Procurement Laws insist on competitive bidding. Title 18 Public Procurement Laws were put into place to avoid corruption in the expenditure and use of public funds for which Montana's taxpayers are obligated. He urged the members of the committee to amend the bill to keep these projects within the guidelines of Title 18.

Questions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Counter: 16.5 - Tape: 1; Side: B; 4.1}

REP. JACOBSON asked Mr. Williamson to explain how the biomass would work in regard to creating a hydrogen energy source.

Mr. Williamson said that there are basically three ways of making hydrogen. One is called reforming where hydrogen is extracted from existing petroleum products. The second way is by coal "popcorning" where, under high pressure and steam, the hydrogen is extracted. The third way is through electrolysis which is taking water and separating the hydrogen from the oxygen.

REP. BROWN asked Mr. Williamson how many of these fuel cells are up and running right now.

Mr. Williamson said that there are thousands throughout the world.

REP. BROWN asked about the procurement rules discussed by Mr. Jergeson.

Mr. Williamson said that bill was created to provide a business environment. Because of Title 18 and the length of time it took to go through the procurement laws, the state recently lost a large project to a state with less stringent procurement laws.

REP. CARNEY asked the sponsor to explain Page three, line three and four and how it would show that the taxes were tied back to the bonds. She also asked if there was a requirement for the company to stay within the state for a particular amount of time after they receive the tax break.

REP. YOUNKIN said that she was not aware of either.

REP. JACOBSON asked Mr. Williamson to briefly describe the general components of the park.

Mr. Williamson said that he envisions this to be a gateway to Montana for the hydrogen industry. This would facilitate other businesses to be created.

REP. MATTHEWS asked Mr. Williamson if he could proceed with the project without the exemptions from Title 18.

Mr. Williamson said, "No, not unless there was a way to streamline the process."

REP. CARNEY asked if there was a way to make Title 18 more streamlined.

Mr. Jergeson said that Title 18 was put into place to protect the taxpayers of Montana. Title 18 requires competitive bidding. Title 18 is not intended to frustrate business, it is in place to provide for a fair and legal process.

REP. CARNEY asked how long the process usually takes under Title 18.

Mr. Jergeson said that the process does not take an extraordinary length of time. It depends on the project and process involved. It is important that the competitive bidding process is not eliminated.

Closing by Sponsor:

{Tape: 1; Side: B; Approx. Time Counter: 4.1 - 7.4}

REP. YOUNKIN said that Mr. Poole, from the Department of Commerce, had an answer to an earlier question.

Andy Poole said that they currently administer the Aerospace Bonding Act. The way the program would work is that the state would issue General Obligation Bonds, build facilities or purchase equipment. The payment comes from the State General Fund. The General Fund would then get paid from additional or new tax revenue from new income or property taxes. All of the taxes go into a business development project. The department would verify over time that the taxes paid by the project would more than cover the cost of the bonds to the State of Montana. The agreement with the Aerospace Projects requires the company to make up the difference if the taxes generated from the project do not cover the cost of the bond.

REP. YOUNKIN said that this would be a clean source of energy for Montana and requested the committee consider a "do pass" recommendation.

HEARING ON HB 417

Sponsor: REPRESENTATIVE GEORGE GOLIE, HD 44

Opening Statement by Sponsor:

{Tape: 1; Side: B; Approx. Time Counter: 7.4 - 9.8}

REP. GOLIE said that in 1978 Congress enacted the Public Utility Regulatory Policy Act (PURPA). PURPA is a broad statute and covers a variety of topics ranging from energy conservation to electrical generation. The act requires electric utilities to purchase electric power from coal generation and small power facilities. That provision of the law has forced utilities to acquire power from the small power producers at rates well above what they could purchase the power for on the open market. Congress is considering repealing PURPA on the Federal level. HB 417 is a contingent repealer. If Congress repeals PURPA at the Federal level, this bill would facilitate the State Law to be repealed. Current contracts would not be affected by this bill.

Proponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 9.8 - 23.5}

John Fitzpatrick, Northwestern Energy (NWE), distributed a document listing Tier II qualifying facilities. He also

distributed some draft amendments to the bill. He explained the amendments. The PURPA has resulted in higher costs to consumers. He explained the other handout. The contract rates listed are based on the number of dockets put together by the PSC in the early 1980's. The second page shows the year, then the energy megawatts, which is the generating capacity times the number of hours in a year or the maximum amount of energy that would be delivered from these contracts. He explained the costs of the PURPA contracts. The column "Contract minus Market Costs" is the extra money that the rate payers are billed. On a normal Northwestern Energy bill there is a line item, CTC-QF, which is money collected from rate payers to cover this last column (contract minus market cost). Rate payers of Montana will be picking up a total of \$1.1 billion additional costs above market price because of these contracts being in place. NWE has the responsibility for procuring electricity in the open market at the lowest possible cost. Passing this legislation is not going to obstruct energy development in Montana such as those proposed at Roundup, Hardin, or the Basin plan in Butte.

EXHIBIT (feh23a02)

EXHIBIT (feh23a03)

Opponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 23.5 - Tape: 2; Side: A; 27.2}

Mike Uda, Navitas, said that Navitas is a relatively small wind company with projects primarily in the Midwest. He said that the PURPA law is designed to overcome utilities' reluctance to deal with small power generators. It also is intended to encourage the development of small energy sources, such as wind, biomass, fuel thermal, hydro projects. He said that repealing this law would discourage these small projects and eliminate customer choice.

Greg Jergeson, Montana Public Service Commission, distributed testimony of Commissioner Tom Schneider who was unable to attend. He said that the Commission does not see a compelling need to repeal this Act. The law needs to be specific to Montana, not based on the conjecture of what Congress may, or may not, choose to do.

EXHIBIT (feh23a04)

Van Jamison, private citizen, said that this bill be a significant step backward in regard to economic development. The

intent of PURPA was to cause no impact to rate payers. The Act promotes the development of wind power. With the elimination of PURPA some of Montana's small companies may not be in a position to compete effectively. The state needs to be focusing on renewable energy sources. If there isn't a place to sell their power, there will be little incentive for small companies to develop these energy sources in Montana. This is the only public policy in the state that provides a market for these kinds of resources.

Informational Testimony:

{Tape: 2; Side: A; Approx. Time Counter: 27.2 - Tape: 2; Side: B, 0.6}

Candace Payne, on behalf of Colstrip Energy Limited Partnership, Billings Generation, Inc., Yellowstone Energy Limited Partnership, Rosebud Operating Services, said that the language in the bill is not concrete enough to prevent ongoing litigation. Contracts need to be enforceable in years to come. They would be comfortable with the bill if the amendments discussed earlier were implemented (see Exhibit 3).

Questions from Committee Members and Responses:

{Tape: 2; Side: B; Approx. Time Counter: 0.6 - 13.6}

REP. BROWN asked Mr. Fitzpatrick to address the lack of transmission in the state.

Mr. Fitzpatrick said that in terms of energy development, if people aren't serving the domestic market, transmission is a problem.

REP. BROWN asked if it has ever been NWE's desire to terminate contracts that are in place right now, through this legislation or others.

Mr. Fitzpatrick said, "No."

REP. BROWN asked Mr. Fitzpatrick to explain what percentage of NWE's default supply portfolio is renewable.

Mr. Fitzpatrick said that the percentage of renewable is miniscule. The primary supply contracts are primarily with Pacific Power & Light. NWE purchases power on the open market to accommodate power usage peaks.

REP. LASZLOFFY asked if renewable and nonrenewable sources could be purchased and mixed to meet other states' mandates to require they use a percentage of renewable energy sources.

Mr. Fitzpatrick said that he assumes that they either produce their own renewable sources or purchase and mix the resources.

REP. MENDENHALL asked how this bill was good for Montana consumers.

Mr. Fitzpatrick said that companies would need to be competitive and provide a good rate to win the bid.

REP. MENDENHALL asked if this bill permanently closes the door to small scale alternative energy technologies for the future in Montana.

Mr. Uda said that in order to obtain financing there must be a market. This bill is a "solution in search of a problem."

REP. SHOCKLEY asked about the windmills near Livingston.

Mr. Uda said that new technology has been successful in dropping the price of wind generation and suspects that the operation near Livingston may not be cost effective.

Closing by Sponsor:

{Tape: 2; Side: B; Approx. Time Counter: 13.6 - 16.8}

REP. GOLIE said that our goal is for an affordable and reliable supply of electrical power. It is our future and economic development. As our default supplier, NWE is charged with providing affordable and reliable electrical power. This bill will not stop power production in the state. He asked the committee to support HB 417.

ADJOURNMENT

Adjournment: 5:05 P.M.

REP. ROD BITNEY, Chairman

GLENN MCCLURE, Secretary

RB/GM

EXHIBIT (feh23aad)